

### **REMARKS**

This is in response to the Office Action mailed on July 12, 2004, and the references cited therewith.

Claims 1-3 are amended, no claims or added; as a result, claims 1-3 remain pending in this application.

#### **§102 Rejection of the Claims**

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Glenn, II et al. (U.S. Patent No. 5,852,774). Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Applicant respectfully submits that the Office Action did not make out a *prima facie* case of anticipation because the Glenn II does not disclose each and every element of claim 1. Claim 1 as amended recites a “group membership service operable to determine membership of a process executing on a server in the plurality of servers for an application distributed across two or more of the plurality of servers.” Applicant has reviewed Glenn II and can find no reference to determining membership of a process in an application distributed across a plurality of servers. As a result, Glenn II does not disclose each and every element of claim 1. Applicant respectfully requests withdrawal of the rejection of claim 1.

Claims 2 and 3 were rejected under 35 U.S.C. § 102(e) as being anticipated by Lee, et al. (U.S. Patent No. 6,145,089). Applicant has amended claim 2 to recite determining, by a group membership service, process membership in an application distributed across servers in a cluster. Applicant has reviewed Le and can find no disclosure of determining process membership for a

distributed application. As a result, Le does not disclose each and every element of Applicant's claim 2. Applicant respectfully requests withdrawal of the rejection.

Claim3 was rejected for the same reasons as claim 2. Applicant respectfully submits that claim 3 is not anticipated for the same reasons as discussed above with respect to claim 2.

Applicant respectfully requests the withdrawal of the rejection of claim 3.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

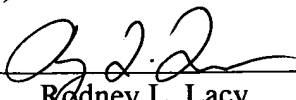
Respectfully submitted,

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Date January 19, 2005

By   
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 12 day of January, 2005.

Rodney L. Lacy  
Name

  
Signature

### **IN THE DRAWINGS**

Corrected drawings are supplied herewith.

The drawings were objected to for failing to comply with 37 CFR 1.84(p)(4) because:

- (a) reference character “12” in Figure 1 has been used to designate “server”, “CMS”, and “node”.
- (b) reference character “12” in Figure 2 has been used to designate “cluster node”, “machine”, “system”, and “server”.
- (c) reference character “10” in Figure 3 has been used to designate “system” and “cluster”.
- (d) reference character “12” in Figure 3 has been used to designate “cluster node”, “machines”, “system”, “nodes”, “servers”, and “server”.
- (e) reference characters “10”, “14” and “16” of Figure 3 as described in the specification are not in the drawings.

Applicant has amended the FIGs. 1-3 to make consistent reference to “server 12”. In addition, FIG 3 has been amended to add reference characters 10, 14 and 16 to refer to the system, network and client respectively as described in the specification.